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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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12/11/2001

Robert Crites

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EXAMINER

LASTRA, DANIEL

ART UNIT

PAPER NUMBER

3622

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DELIVERY MODE

01/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/015,548</p>	<p>Applicant(s) CRITES, ROBERT</p>	
	<p>Examiner DANIEL LASTRA</p>	<p>Art Unit 3622</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-13 and 16-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Raquel Alvarez/
Primary Examiner, Art Unit 3622

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues that Herz does not describe a method of generating an ordered listing of offers from a set of offers by considering the potential customer independently from others of the potential customers in the group. The Examiner answers that Herz teaches a system that selects offers to be presented to a shopper, where said offers are displayed to said shopper in an ordered list (see paragraph 38) and where said offers are ranked (see paragraph 243) from the highest priced offers that the shopper is likely to accept (see paragraph 240). Herz also teaches identifying offers that are appropriate for each shopper independently from other shoppers in a group (see paragraph 24). Therefore, contrary to Applicant's argument, Herz teaches Applicant's claimed limitation. The Applicant argues that Herz does not teach claim 4. The Examiner answers that Herz teaches identifying offers that are appropriate for each shopper (See paragraph 24). Therefore, contrary to Applicant's argument, Herz teaches claim 4. The Applicant argues that Herz does not teach claim 6 because Herz was not obtained through consideration of a single shopper. The Examiner answers that Herz teaches identifying offers that are appropriate for each shopper (see paragraph 24) and that Herz predicts how likely each shopper from a group of shoppers is to purchase a given offer (see paragraph 240). Therefore, contrary to Applicant's argument, Herz teaches claim 6. The Applicant argues that Herz does not teach claim 7. The Examiner answers that Herz teaches an ordered list of offers rank by profit of said offers (see paragraphs 38 and 240) where said list is a prioritized list as said offers in said list are ordered or rank (see paragraph 243) based upon profits (see paragraph 38 "displayed more centrally"). Therefore, contrary to Applicant's argument, Herz teaches claim 7. The Applicant argues that Herz does not teach claims 8,9,21, 22 and 29. The Examiner answers that the list presented to shopper in the Herz system is a subset of a list, where only the offers relevant to each shopper are selected in said list (see paragraph 252). Therefore, contrary to Applicant's argument, Herz teaches the limitation in said claims. The Applicant argues that Herz does not teach claims 10, 23 and 30. The Examiner answers that Herz teaches selecting from a group of offers a subset of offers (i.e. "M") to display to a shopper (see paragraph 252) and Herz also selects the one offers from a list of n offers (i.e. "S") which the shopper's interest is estimated to be highest. Therefore, contrary to Applicant's argument, Herz teaches the limitation of said previous claims. The Applicant argues that Herz does not teach claims 11 and 24. The Examiner answers that Herz teaches in paragraph 246 adjusting the offers send to shoppers by sending alternative version of said offers. Therefore, contrary to Applicant's argument, Herz teaches the limitation of said previous claims.